



General Assembly

January Session, 2001

***Raised Bill No. 6688***

LCO No. 3687

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING REVISIONS TO CERTAIN SOLID WASTE  
STATUTES.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (a) of section 3-7 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (a) Except as otherwise provided in this subsection, any  
4 uncollectible claim for an amount of one thousand dollars or less may  
5 be cancelled upon the books of any state department or agency upon  
6 the authorization of the head of such department or agency. Any  
7 uncollectible costs in an amount less than five thousand dollars  
8 incurred by the Commissioner of Environmental Protection pursuant  
9 to subdivision (1) of subsection (a) of section 22a-471 for the short-term  
10 provision of potable drinking water or section 22a-451, for  
11 investigating, containing, removing, monitoring or mitigating  
12 pollution and contamination, emergency or hazardous waste may be  
13 cancelled by the commissioner, in accordance with procedures  
14 approved by the State Comptroller. When the Commissioner of  
15 Environmental Protection, acting under the authority granted by the  
16 Governor, elects to file a claim for reimbursement of state costs for

17 investigating, containing, removing, monitoring or mitigating  
18 pollution or contamination with the federal government pursuant to  
19 the Oil Pollution Act of 1990, 33 USC 2701, the commissioner may  
20 waive the state's right to pursue an independent cost recovery action  
21 under section 22a-451 for any costs not reimbursed by the federal  
22 government under the Oil Pollution Act of 1990.

23       Sec. 2. Section 22a-452a of the general statutes is repealed and the  
24 following is substituted in lieu thereof:

25       (a) On and after June 3, 1985, any amount paid by the Commissioner  
26 of Environmental Protection pursuant to subsection (b) of section 22a-  
27 451 to contain and remove or mitigate the effects of a spill or to remove  
28 any hazardous waste shall be a lien against the real estate on which the  
29 spill occurred or from which it emanated or against real estate where  
30 no spill occurred but from which hazardous waste was removed  
31 provided such hazardous waste did not enter such real estate through  
32 surface or subsurface migration. Any such lien shall be filed in  
33 accordance with the provisions of this section, except that such lien  
34 against real estate which has been transferred in accordance with the  
35 provisions of sections 22a-134 to 22a-134d, inclusive, shall not have  
36 priority over any previous transfer or encumbrance. The amount of the  
37 lien shall include administrative costs, as set forth in subsection (a) of  
38 section 22a-451, as of the date of the filing of the lien. Any costs  
39 incurred subsequent to the filing of the lien may be the subject of  
40 another lien.

41       (b) Notwithstanding the provisions of subsection (a) of this section,  
42 amounts paid by the Commissioner of Environmental Protection  
43 pursuant to subsection (b) of section 22a-451 shall not be a lien against  
44 property operated as a public right-of-way that is owned by the state  
45 or a political subdivision of the state, unless the state or the political  
46 subdivision of the state would be liable for the costs of the spill  
47 pursuant to subsection (a) of section 22a-451.

48       [(b)] (c) A lien pursuant to this section shall not be effective unless

49 (1) a certificate of lien is filed in the land records of each town in which  
50 the real estate is located, describing the real estate, the amount of the  
51 lien, the name of the owner as grantor, and (2) the commissioner mails  
52 a copy of the certificate to the owner of record and to all other persons  
53 of record holding an interest in such real estate over which the  
54 commissioner's lien is entitled to priority. Upon presentation of a  
55 certificate of lien, the town clerk shall endorse thereon [his] an  
56 identification and the date and time of receipt and forthwith record it  
57 in accordance with section 42a-9-409.

58 ~~[(c)]~~ (d) (1) Before filing a lien under this section, the commissioner  
59 shall give the owner of the property on which the lien is to be filed and  
60 mortgagees and lienholders of record a notice of [his] intent to file a  
61 certificate of lien, as provided in this subsection.

62 (2) The notice required under this subsection shall be sent by  
63 certified mail or served in the manner for serving civil process and  
64 shall provide the following: (A) A statement of the purpose of the lien;  
65 (B) a brief description of the property to be affected by the lien; (C) a  
66 statement of the sum of the expenses incurred by the commissioner in  
67 containing, removing or mitigating the effects of a spill or removing  
68 hazardous waste; (D) a brief statement of the facts demonstrating  
69 probable cause that the property is the subject of the expenses incurred  
70 by the commissioner; and (E) the time period following service during  
71 which any recipient of such notice whose legal rights may be affected  
72 by the lien may request a hearing before the commissioner. A request  
73 for a hearing under this subsection must be received by the  
74 commissioner on or before thirty days following the service of the  
75 notice of intent to file a certificate of lien. A hearing held pursuant to a  
76 request filed under this subsection shall be limited to determining, in a  
77 summary manner, probable cause for filing the certificate of lien.

78 ~~[(d)]~~ (e) In the absence of a timely request for a hearing, the  
79 certificate of lien may be filed on the land records immediately. If a  
80 hearing is held, the commissioner may issue a decision authorizing the

81 filing of a certificate of lien on the land records, denying the filing of a  
82 certificate of lien or authorizing the filing and modifying the amount of  
83 the certificate of lien.

84 [(e)] (f) Within thirty days after the filing of the certificate of lien  
85 pursuant to this section, any property owner, mortgagee or other  
86 lienholder of record who has been served with a copy of the certificate  
87 of lien and whose legal rights may be affected by the lien may file with  
88 the commissioner a request for a hearing limited to the issues of a  
89 reduction in the amount of the lien or a discharge of the lien in its  
90 entirety. If requested, the commissioner shall hold a hearing as soon  
91 thereafter as practicable. There shall be no stay of a decision by the  
92 commissioner authorizing the filing of a certificate of lien unless the  
93 party seeking a stay has posted a surety acceptable to the  
94 commissioner in an amount sufficient to cover the full amount of the  
95 lien plus interest and costs.

96 [(f)] (g) Except as provided in subsection (a) of this section, such lien  
97 shall take precedence over all transfers and encumbrances recorded on  
98 or after June 3, 1985, in any manner affecting such interest in such real  
99 estate or any part of it on which the spill occurred or from which the  
100 spill emanated, or real estate which has been included, within the  
101 preceding three years, in the property description of such real estate  
102 and is contiguous to such real estate. This subsection shall not apply to  
103 real estate which consists exclusively of residential real estate,  
104 including but not limited to, residential units in any common interest  
105 community, as defined in section 47-202.

106 [(g)] (h) In the case of all other real estate, including real estate  
107 which consists exclusively of residential real estate, including but not  
108 limited to, residential units in any common interest community, as  
109 defined in section 47-202, the lien shall take precedence over any  
110 transfer or encumbrance recorded after the commissioner files with the  
111 town clerk notice of intent to file a lien on the land records in the town  
112 in which the real estate is located.

113        [(h)] (i) When any amount with respect to which a lien has been  
114 recorded under the provisions of this section has been paid or reduced,  
115 the commissioner, upon request of any interested party, shall issue a  
116 certificate discharging or partially discharging such lien, which  
117 certificate shall be recorded in the same office in which the lien was  
118 recorded. The town clerk shall note the recording of the certificate of  
119 discharge upon the original notice of lien. Any action for the  
120 foreclosure of such lien shall be brought by the Attorney General in the  
121 name of the state in the superior court for the judicial district in which  
122 the property subject to such lien is situated, or, if such property is  
123 located in two or more judicial districts, in the superior court for any  
124 one such judicial district, and the court may limit the time for  
125 redemption or order the sale of such property or make such other or  
126 further decree as it judges equitable.

127        (j) The Commissioner of Environmental Protection may elect not to  
128 impose a lien under subsection (c) of this section if the costs incurred  
129 by the commissioner pursuant to subsection (b) of section 22a-451 do  
130 not exceed three thousand dollars. The commissioner may elect not to  
131 impose a lien, or may elect to release a lien once imposed, if the  
132 property is owned by a political subdivision of the state and the  
133 political subdivision of the state spends an amount that is at least  
134 equivalent to the costs incurred by the commissioner for purposes of  
135 environmental remediation and redevelopment of the property.

136        Sec. 3. Subsection (f) of section 22a-220a of the general statutes is  
137 repealed and the following is substituted in lieu thereof:

138        (f) Any collector who dumps more than one cubic foot in volume of  
139 solid waste at one time in an area not designated for such disposal by a  
140 municipality pursuant to the provisions of this section or who  
141 [knowingly] mixes other solid waste with items designated for  
142 recycling pursuant to section 22a-241b, or pursuant to municipal  
143 ordinance shall for a first violation be liable for a civil penalty of not  
144 more than two thousand five hundred dollars for each violation and

145 not more than ten thousand dollars for a subsequent violation. Any  
146 municipality or the Attorney General, at the request of the  
147 commissioner, may bring an action under this section. All such actions  
148 shall have precedence in the order of trial as provided in section 52-  
149 191. Any such action by the Attorney General shall be brought in the  
150 superior court for the judicial district of Hartford.

151 Sec. 4. Section 22a-208y of the general statutes is repealed and the  
152 following is substituted in lieu thereof:

153 The person holding the permit for a resources recovery facility, a  
154 municipal solid waste landfill or any solid waste disposal area for the  
155 disposal of bulky waste may submit to the Commissioner of  
156 Environmental Protection a plan for the acceptance and disposal of  
157 special waste or processed construction and demolition wood at such  
158 facility. For purposes of this section, "special waste" shall have the  
159 meaning provided in regulations adopted by said commissioner under  
160 this chapter. Such plan shall identify special waste or processed  
161 construction and demolition wood which can be subject to uniform  
162 procedures for screening, testing, acceptance, recordkeeping, handling  
163 and disposal and shall include the rate at which such waste shall be  
164 processed. The commissioner shall review any plan submitted  
165 according to this section and shall approve or deny such plan. If  
166 accepted, compliance with such plan may constitute the special waste  
167 authorization from said commissioner which would otherwise be  
168 required for waste which meets the criteria of the plan.

169 Sec. 5. Section 22a-255h of the general statutes is repealed and the  
170 following is substituted in lieu thereof:

171 (1) "Package" means any container used for the marketing,  
172 protecting or handling of a product and includes a unit package, an  
173 intermediate package and a shipping container. "Package" also means  
174 any unsealed receptacle such as a carrying case, crate, cup, pail, rigid  
175 foil or other tray, wrapper or wrapping film, bag or tub but shall not  
176 include any glass, ceramic or metal receptacle which is intended to be

177 reusable or refillable.

178 (2) "Distributor" means any person, firm, association, partnership or  
179 corporation who takes title or delivery from the manufacturer of a  
180 package, packaging component or product to use for promotional  
181 purposes or to sell.

182 (3) "Packaging component" means any part of a package, including,  
183 but not limited to, any interior or exterior blocking, bracing,  
184 cushioning, weatherproofing, exterior strapping, coating, closure, ink,  
185 label, dye, pigment, adhesive, stabilizer or other additive. Tin-plated  
186 steel that meets specification A623 of the American Society of Testing  
187 and Materials shall be considered as a single packaging component.  
188 Electrolytic galvanized steel that meets specification A879 of the  
189 American Society of Testing and Materials and hot-dipped coated  
190 galvanized steel that meets specification A525 of the American Society  
191 of Testing and Materials shall be treated in the same manner as tin-  
192 plated steel.

193 (4) "Commissioner" means the Commissioner of Environmental  
194 Protection.

195 (5) "Department" means the Department of Environmental  
196 Protection.

197 (6) "Intermediate package" means a wrap, box, or bundle which  
198 contains two or more unit packages of identical items.

199 (7) "Unit package" means the first tie, wrap, or container applied to  
200 a single item, a quantity of the same item, a set, or an item with all its  
201 component parts, which constitutes a complete and identifiable  
202 package containing the unit of issue of a product for ultimate use.

203 (8) "Shipping container" means a container which is sufficiently  
204 strong to be used in commerce for packing, storing and shipping  
205 commodities.

206 (9) "Container" means a receptacle capable of closure.

207 (10) "Intentionally introduced" means deliberately utilized regulated  
208 metal in the formulation of a package or packaging component where  
209 the continued presence of such metal is desired in the final package or  
210 packaging component to provide a specific characteristic, appearance  
211 or quality. The use of a regulated metal as a processing agent or  
212 intermediate to impart certain chemical or physical changes during  
213 manufacturing where the incidental retention of a residue of said  
214 metal in the final package or packaging component is neither desired  
215 nor deliberate shall not be considered intentional introduction for the  
216 purposes of this section where such package or component is in  
217 compliance with subsection (c) of section 22a-255i. The use of recycled  
218 materials as feedstock for the manufacture of new packaging materials  
219 where some portion of the recycled materials may contain amounts of  
220 the regulated metals shall not be considered intentional introduction  
221 for the purposes of this section provided the new package or  
222 packaging component is in compliance with subsection (c) of section  
223 22a-255i.

224 (11) "Distribution" means the process for transferring a package or  
225 packaging component for promotional purposes or resale. Persons  
226 involved solely in delivering a package or packaging component on  
227 behalf of third parties shall not be considered distributors.

228 (12) "Manufacturer" means any person, firm, association,  
229 partnership or corporation producing a package or packaging  
230 component as defined in subdivision (3) of this section.

231 (13) "Manufacturing" means the physical or chemical modification  
232 of a material to produce packaging or packaging components.

233 (14) "Supplier" means any person, firm, association, partnership or  
234 corporation which sells, offers for sale or offers for promotional  
235 purposes packages or packaging components which will be used by  
236 any other person, firm, association, partnership or corporation to



237 package a product.

238 Sec. 6. Subsection (a) of section 22a-255i of the general statutes is  
239 repealed and the following is substituted in lieu thereof:

240 (a) As soon as feasible, but not later than October 1, 1992, no  
241 package or packaging component shall be offered for sale or  
242 promotional purposes in this state, by its manufacturer or distributor,  
243 if it is composed of any lead, cadmium, mercury or hexavalent  
244 chromium which has been intentionally introduced during  
245 manufacturing or distribution, as opposed to the incidental presence of  
246 any of these substances.

247 Sec. 7. Section 22a-255j of the general statutes is repealed and the  
248 following is substituted in lieu thereof:

249 (1) A package or packaging component which was manufactured  
250 prior to October 1, 1990, and displays a code indicating the date it was  
251 manufactured;

252 (2) A package or packaging component that would not exceed any  
253 maximum concentration set forth in subsection (c) of section 22a-255i  
254 but for the addition or use of recycled materials; provided the  
255 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by  
256 this act, shall apply to such packages on and after January 1, [2000]  
257 2010;

258 (3) A package or packaging component to which lead, cadmium,  
259 mercury or hexavalent chromium have been added in the  
260 manufacturing or distribution process in order to comply with health  
261 or safety requirements of federal law, provided the manufacturer of  
262 such a package or packaging component has demonstrated to the  
263 commissioner that such package or packaging component is entitled to  
264 an exemption under this subdivision and the commissioner grants  
265 such exemption. The exemption shall be effective for up to two years  
266 and may be extended if circumstances warrant an extension. An

267 extension may be granted for up to two years;

268 (4) Any alcoholic liquor bottled prior to October 1, 1992;

269 (5) A package or packaging component to which lead, cadmium,  
270 mercury or hexavalent chromium have been added in the  
271 manufacturing or distribution process for which there is no feasible  
272 alternative to the use of lead, cadmium, mercury or hexavalent  
273 chromium provided the manufacturer of such a package or packaging  
274 component has demonstrated to the commissioner that such package  
275 or packaging component is entitled to an exemption under this  
276 subdivision and the commissioner grants such exemption. The  
277 exemption shall be effective for two years and may be extended if  
278 circumstances warrant an extension. An extension may be granted for  
279 up to two years. For purposes of this subdivision, a use for which there  
280 is no feasible alternative is one which is essential to the protection, safe  
281 handling or function of the package's contents and [for which there is  
282 no substitute] that technical constraints preclude the substitution of the  
283 other materials. For purposes of this subdivision, a use for which there  
284 is no feasible alternative does not include marketing.

285 (6) A package or packaging component that exceeds contaminant  
286 levels set forth in subsection (c) of section 22a-255i, provided (A) the  
287 product being conveyed by such package or packaging component is  
288 regulated under federal or state health or safety requirements; (B) the  
289 transportation of such package or packaging component is regulated  
290 under federal or state transportation requirements; (C) the disposal of  
291 the package or packaging component is performed according to  
292 federal or state radioactive or hazardous waste disposal requirements;  
293 and (D) the manufacturer of such package or packaging component  
294 has demonstrated to the commissioner that such package or packaging  
295 component is entitled to an exemption under this subdivision and the  
296 commissioner grants such exemption. Any exemption granted under  
297 this subdivision shall expire on January 1, [2000] 2010;

298 (7) A package or packaging component which is reusable and has a

299 controlled distribution and reuse but which exceeds the contaminant  
 300 levels set forth in subsection (c) of section 22a-255i, provided the  
 301 manufacturer or distributor of such package or packaging component  
 302 petitions the commissioner for an exemption and the commissioner  
 303 grants such exemption. A manufacturer or distributor petitioning the  
 304 commissioner for such an exemption shall (A) satisfactorily  
 305 demonstrate that the environmental benefit of the reusable packaging  
 306 or packaging component is significantly greater as compared to the  
 307 same package or packaging component manufactured in compliance  
 308 with the contaminant levels set forth in subsection (c) of section 22a-  
 309 255i, and (B) submit a written plan including, at a minimum, the  
 310 following elements: (i) A means of identifying in a permanent and  
 311 visible manner those reusable packages or packaging components  
 312 containing regulated metals for which the exemption is sought; (ii) a  
 313 method of regulatory and financial accountability such that a specified  
 314 percentage of such reusable packaging or packaging components  
 315 manufactured and distributed to other persons are not discarded by  
 316 those persons after use, but are returned to the manufacturer or [his]  
 317 its designee; (iii) a system of inventory and record maintenance to  
 318 account for the reusable packaging or packaging components placed in  
 319 and removed from service; (iv) a means of transforming returned  
 320 packaging or packaging components that are no longer reusable into  
 321 recycled materials for manufacturing or into manufacturing wastes  
 322 which are subject to existing federal or state laws or regulations to  
 323 ensure that these wastes do not enter the commercial or municipal  
 324 waste stream; and (v) a system for annually reporting to the  
 325 commissioner any changes to the system or changes regarding the  
 326 manufacturer's designee. Any exemption granted under this  
 327 subdivision shall expire on January 1, [2000] 2010.

328 Sec. 8. Subsection (a) of section 22a-255m of the general statutes is  
 329 repealed and the following is substituted in lieu thereof:

330 (a) The department may, in consultation with the [Source Reduction  
 331 Council of the Council of Northeastern Governors] other member

332 states of the Toxics in Packaging Clearinghouse, review the  
333 effectiveness of sections 22a-255g to 22a-255m, inclusive, as amended  
334 by this act, and provide a report based on such review to the Governor  
335 and the General Assembly. The report may describe substitutes which  
336 manufacturers and distributors of packages and packaging  
337 components have used in place of lead, mercury, cadmium and  
338 hexavalent chromium, and may contain recommendations concerning  
339 (1) other toxic substances contained in packaging that should be added  
340 to those regulated under the provisions of sections 22a-255g to 22a-  
341 255m, inclusive, as amended by this act, in order to further reduce the  
342 toxicity of packaging waste and (2) the advisability of retaining the  
343 exemption provided in subdivision (2) of section 22a-255j, as amended  
344 by this act.

345       Sec. 9. Subsection (a) of section 22a-454 of the general statutes is  
346 repealed and the following is substituted in lieu thereof:

347       (a) No person shall engage in the business of collecting, storing or  
348 treating waste oil or petroleum or chemical liquids or hazardous  
349 wastes or of acting as a contractor to contain or remove or otherwise  
350 mitigate the effects of discharge, spillage, uncontrolled loss, seepage or  
351 filtration of such substance or material or waste nor shall any person,  
352 municipality or regional authority dispose of waste oil or petroleum or  
353 chemical liquids or waste solid, liquid or gaseous products or  
354 hazardous wastes without a permit from the commissioner. Such  
355 permit shall be in writing, shall contain such terms and conditions as  
356 the commissioner deems necessary and shall be valid for a fixed term  
357 not to exceed five years. No permit shall be granted, renewed or  
358 transferred unless the commissioner is satisfied that the activities of  
359 the permittee will not result in pollution, contamination, emergency or  
360 a violation of any regulation adopted under sections 22a-30, 22a-39,  
361 22a-116, 22a-347, 22a-377, 22a-430, 22a-449, 22a-451 and 22a-462. The  
362 commissioner shall require payment of a fee of five hundred dollars  
363 per year for each year covered by a permit to transport hazardous  
364 waste and the payment of a fee of fourteen thousand dollars for a

365 permit to treat waste oil or petroleum or chemical liquids. The  
366 commissioner may adopt regulations, in accordance with the  
367 provisions of chapter 54, to prescribe the amount of the fees required  
368 pursuant to this section. Upon the adoption of such regulations, the  
369 fees required by this section shall be as prescribed in such regulations.  
370 The commissioner may suspend or revoke a permit for violation of any  
371 term or condition of the permit, for conviction of a violation of section  
372 22a-131a or for assessment of a fine under section 22a-131. The  
373 commissioner may conduct a program of study and research and  
374 demonstration, relating to new and improved methods of waste oil  
375 and petroleum or chemical liquids or waste solid, liquid or gaseous  
376 products or hazardous wastes disposal. For the purposes of this  
377 section, collecting, storing, or treating of waste oil, petroleum or  
378 chemical liquids or hazardous waste shall mean such activities when  
379 engaged in by a person whose principal business is the management of  
380 such wastes. The commissioner may, by regulations adopted in  
381 accordance with the provisions of chapter 54, exempt persons,  
382 municipalities or regional authorities from the requirement to obtain a  
383 permit under this section for activities associated with certain  
384 universal wastes, as defined in 40 CFR 260.10.

385 Sec. 10. Section 22a-611 of the general statutes is repealed and the  
386 following is substituted in lieu thereof:

387 The owner or operator of a facility required to complete a toxic  
388 release form under Section 313 of the Emergency Planning and  
389 Community Right-to-Know Act of 1986 shall submit such form  
390 annually to the commission on or before July [1, 1990, and annually  
391 thereafter] first or a date established by the United States  
392 Environmental Protection Agency, whichever is later.

***Statement of Purpose:***

To allow the Commissioner of Environmental Protection to waive portions of the state's claims for costs incurred in the clean-up of oil spills that are not reimbursed under the federal Oil Pollution Act; to cancel any uncollectible costs associated with the short-term provision

of potable drinking water; to exclude state-funded cleanups of hazardous waste on public rights of way from the lien provision under section 22a-452a of the general statutes; to promote the segregation of recyclables from solid waste; to allow municipal solid waste landfill and solid waste disposal area operators to use generic solid waste management plans; to renew specific exemptions to allow companies to continue to do business in the state until 2010; to refine certain definitions to conform with similar statutes in other states; to revise section 22a-454 of the general statutes to parallel the Universal Waste Rule; to maintain consistency with Environmental Protection Agency filing deadlines.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*